

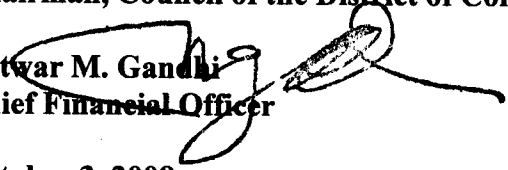
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: October 3, 2008

SUBJECT: Fiscal Impact Statement: "Omnibus Anti-Crime Amendment Act of 2008"

REFERENCE: Draft - No Bill Number Available

Conclusion

Funds are sufficient in the proposed FY 2009 through FY 2012 budget and financial plan to implement the provisions of the proposed legislation.

Background

The proposed legislation contains numerous provisions intended to increase public safety and combat crime in the District of Columbia. The proposed bill amends laws relating to guns, violent crime, witness retaliation, drugs, identify theft, stalking, DNA collection for convicted defendants, and marital and physician-patient privileges, among other minor and procedural changes to existing laws.

Below is a topic-by-topic summary of the proposed bill, as provided to the Office of the Chief Financial Officer (OCFO) by the Office of the City Administrator.¹

Guns:

- Increases the penalty for felon in possession of a firearm to a mandatory minimum of two years, or five years if previously convicted of a violent crime.

¹ The OCFO concurs that the outline provided is an accurate summary of the proposed bill.

- Amends the pre-trial release law so that probable cause for the arrest of certain dangerous and violent offenses will support a finding of dangerousness for pre-trial detention. Adds felon-in-possession of a firearm and carrying a pistol without a license to list of offenses where there is a rebuttable presumption of dangerousness.
- Criminalizes the discharging of a firearm to make it a felony charge, unless otherwise permitted by law.

Violent Crime and Gangs:

- Creates the new charge of use of a stolen vehicle to commit crime of violence with a minimum penalty of five years (judge must sentence the person to at least 5 years but can suspend execution of all or part of it and place the person on probation).
- Amends definition of a gang to at least three members, instead of six, and to include certain conditions of membership, including the violation of any criminal law and the exclusion of any person from a specific geographic area by force or threats.
- Authorizes the issuance of civil injunctions against gangs declaring their public behavior a nuisance and requiring specific prohibitions.
- Increases the penalty for criminal conspiracies to commit violent crimes from 5 years for all conspiracies to the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.
- Revises "assault with intent" statute to simplify elements of the crime and instructions to jury, consistent with AWIK.

Witness retaliation:

- Prohibits disclosure of the names and addresses of victims of certain crimes on police reports, including domestic crimes, violent crimes, stalking, and threats.
- Adds retaliatory threats (threats to injure; now just says "injure") to obstruction of justice statute.

DNA:

- Expands list of DNA sample offenses (crimes for which convicted defendants have to give DNA samples) from current list of violent and serious felonies to all felonies.

Drugs:

- Enumerates fresh Cathinone ("Khat") as a Schedule I drug.

Procedural:

- Defines "daylight" in the warrant statute as 6 a.m. to 11 p.m. (currently it is not defined and special permission is required to serve warrants after sundown).
- Expands arrests without warrant offenses (offenses where officer can arrest based on probable cause when officer has not actually witnessed crime) to include destruction of property and voyeurism.
- Makes unlawful entry a non-jury demandable offense (exempts First Amendment activity).
- Requires hospital health care providers to take blood from suspected drunk drivers and gives providers immunity for doing so (hospitals say they have no authority right now).

- Amends detention hearing statute to allow postponement on New Years Day, Christmas Day and Thanksgiving.
- Expands mandatory HIV testing for criminal defendants to require testing at any time after a preliminary hearing (currently only mandated for those convicted of crimes for which victim is at risk of contracting HIV).

Privileges:

- Amends marital privilege law to prohibit claim of privilege by a spouse accused of domestic violence or other criminal offense prior to the marriage.
- Expands exceptions to physician patient privilege so evidence can be used in proceedings beyond criminal (as provided in current law) to include grand jury, delinquency, domestic violence, civil fraud and specific violent crimes prosecutions.

Statutory revisions:

- Revises consent defense definition in sexual assault statute.
- Revises identity theft and theft statutes to include broader scope of conduct consistent with modern criminal practices in these areas.
- Revises stalking law to clarify current law and to make it consistent with model legislation written by the National Center for Victims of Crime.
- Adds penalty for false reports of abuse to CFSA (is already illegal but has no penalty).

Financial Plan Impact

Funds are sufficient in the proposed FY 2009 through FY 2012 budget and financial plan to implement the provisions of the proposed legislation.

District agencies, including the Metropolitan Police Department (MPD) and the Office of the Attorney General (OAG), could absorb the impact of implementing the provisions of the proposed bill with existing resources. The intent of the proposed bill, in part, is to provide for greater administrative efficiencies in MPD and OAG. While these may be realized, any cost savings associated with them, if any, cannot be reliably estimated.

The revenue impact associated with enumerating Cathinone ("Khat") as a Schedule I drug is expected to be minimal and could be absorbed in the budget and financial plan.